

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

- - - - -
ESTATE OF ROGER D. :
OWENSBY JR., et al., :
:
Plaintiffs, : Case No. 01-CV-769
vs. : (Judge S. A. Spiegel)
:
CITY OF CINCINNATI, : VOLUME I
et al., :
:
Defendants. :
- - - - -

Videotaped deposition of DAVID WILLIAM
HUNTER JR., a witness herein, called by the
plaintiffs for cross-examination, pursuant to the
Federal Rules of Civil Procedure, taken before me,
Wendy Davies Welsh, a Registered Diplomate Reporter
and Notary Public in and for the State of Ohio, at
the offices of Helmer, Martins & Morgan Co. LPA,
1900 Fourth & Walnut Centre, 105 East Fourth Street,
Cincinnati, Ohio, on Thursday, November 6, 2003, at
2:43 p.m.

Owensby, et al. vs. City of Cincinnati
November 6, 2003

DAVID WILLIAM HUNTER, JR.

	Page 2		Page 4
1 APPEARANCES:			
2 On behalf of the Plaintiffs:			
3 Paul B. Martins, Esq.		1 Federal Rules of Civil Procedure, may be taken at	
4 Don Stiens, Esq.		2 this time by the notary; that said deposition may be	
5 Frederick M. Morgan Jr., Esq.		3 reduced to writing in stenotype by the notary, whose	
6 Helmer, Martins & Morgan Co., LPA		4 notes may then be transcribed out of the presence of	
7 Suite 1900, Fourth & Walnut Centre		5 the witness; and that proof of the official	
8 105 East Fourth Street		6 character and qualifications of the notary is	
9 Cincinnati, Ohio 45202		7 expressly waived.	
10 Phone: (513) 421-2400		8	
11 John J. Helbling, Esq.		9 - - -	
12 The Helbling Law Firm, L.L.C.		10 I N D E X	
13 3672 Springdale Road		11 Examination by: Page	
14 Cincinnati, Ohio 45251		12 Mr. Martins 5	
15 Phone: (513) 923-9740		13 - - -	
16 On behalf of the Defendants City of Golf Manor,		14	
17 Stephen Tilley, Roby Heiland and Chris		15 E X H I B I T S	
18 Campbell:		16	
19 Wilson G. Weisenfelder Jr., Esq..		17	
20 Rendigs, Fry, Kiely & Dennis		18 Deposition Exhibit 6A 89	
21 900 Fourth & Vine Tower		19 Deposition Exhibit 54 29	
22 One West Fourth Street		19 Deposition Exhibit 55 43	
23 Cincinnati, Ohio 45202-3688		20 Deposition Exhibit 56 62	
24 Phone: (513) 381-9200		20 Deposition Exhibit 57 64	
25 On behalf of the Defendants City of Cincinnati,		21 Deposition Exhibit 58 67	
26 Darren Sellers, Jason Hodge:		22 - - -	
27 Geri Hernandez Geiler, Esq.		23	
28 Assistant City Solicitor		24	
29 and			
30 Julie F. Bissinger, Esq.			
31 Chief Counsel			
32 Department of Law			
33 Room 214, City Hall			
34 801 Plum Street			
35 Cincinnati, Ohio 45202			
36 Phone: (513) 352-3346			

	Page 3		Page 5
1 APPEARANCES (Continued):			
2 On behalf of the Defendants Robert B. Jorg,		1 VIDEOGRAPHER: Time is 2:43 p.m. The date	
3 Patrick Caton, Jason Hodge, Victor Spellen and		2 is November the 6th. The year is 2003.	
4 Darren Sellers:		3 If you'd please swear the witness, ma'am.	
5 Donald E. Hardin, Esq.		4 DAVID WILLIAM HUNTER JR.	
6 Hardin, Lefton, Lazarus & Marks, LLC		5 being by me first duly cautioned and sworn, deposes	
7 915 Cincinnati Club Building		6 and says as follows:	
8 30 Garfield Place		7 VIDEOGRAPHER: We're on the record, Mr.	
9 Cincinnati, Ohio 45202		8 Martins. This is videotape number 1, sir.	
10 Phone: (513) 721-7300		9 CROSS-EXAMINATION	
11 On behalf of the David William Hunter Jr.:		10 BY MR. MARTINS:	
12 Jay Clark, Esq.		11 Q. Sir, would you state for the record your	
13 114 East 8th Street		12 full name, please.	
14 Suite 400		13 A. David William Hunter Jr.	
15 Cincinnati, Ohio 45202		14 Q. And your age?	
16 Phone (513) 587-2887		15 A. 36.	
17 Also present:		16 Q. Date of birth?	
18 Richard W. Grubb, Videographer		17 A. 5/20/67.	
19 Lisa Damstrom, Law Clerk		18 Q. What is your height?	
20 Helmer, Martins & Morgan Co., L.P.A.		19 A. 5' 7."	
21 Mr. Roger Owensby		20 Q. And on November 7th of 2000 what was your	
22 Mrs. Brenda Owensby		21 weight?	
23		22 A. Approximately 175.	
24		23 Q. Have you ever had your deposition taken	
		24 before?	

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(800) 578-1542 * MERIT * (513) 381-8228

Owensby, et al. vs. City of Cincinnati

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1 recollection of seeing Roger Owensby before
2 September of 2000?

3 A. N--

4 Q. Correct?

5 A. No. As far as what I just said.

6 Q. Right.

7 A. I know it's kind of confusing, but I'm
8 trying to answer as truthful as possible.

9 Q. Right. You have no recollection of seeing
10 Roger Owensby before September of 2000?

11 A. Right. Okay.

12 Q. Okay. Walk me through what happened in
13 September of 2000.

14 A. Me and Officer Jorg were working
15 plainclothes, old clothes, and we were doing an
16 investigation in front of the Sam's Drive Thru. It
17 was three to four individuals that we observed
18 making drug transactions. We wanted to stop those
19 individuals.

20 Officer Jorg stayed with -- with one or
21 two of the individuals and then two of the
22 individuals went across the street, across from
23 Sam's Drive Thru, across -- that would be Seymour,
24 in the direction of Huntington Meadows Apartment

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1 And he said, "What's that?" Or something
2 to that nature.

3 I said, "You can't be telling people" --
4 as I was saying this to him, I reached into my shirt
5 with my other hand. I was wearing my badge on a
6 chain around my neck. "You can't be telling --
7 you -- you can't be warning people that the -- the
8 police is here. That's -- and -- that's interfering
9 with an investi"--

10 As I was saying investigation or whatnot,
11 I flipped my badge out and it dropped down dangling
12 around my neck. When he saw my badge, he pushed me
13 off him, and I grabbed the back --

14 He had a hooded sweat shirt on. I grabbed
15 the back of his sweat shirt, and he tugged and
16 pulled and his sweat shirt ripped. And I was just
17 basically standing there holding his sweat shirt,
18 because he ripped right out of it.

19 At that point I -- I actually drew my
20 weapon. And I told him, "Don't move." You know,
21 "Freeze." He -- he kind of faked to the left, to
22 the right or whatever, and took off running. I had
23 no intention of shooting. I -- I didn't have the
24 authority to shoot him, and he probably knew that.

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1 complex. So I responded across the street behind
2 them.

3 Another uniform car -- another uniform car
4 met me across the street, and that officer was
5 Officer Walker. I advised Officer Walker to go
6 around, because I wanted him to flank the two guys
7 we were trying to catch up to.

8 Because I could pretty much walk up to
9 them, because they probably wouldn't -- wouldn't
10 have taken me as being a police officer, but Officer
11 Walker was in uniform of the day.

12 After we had that discussion, I started in
13 one direction. Officer Walker started in another
14 direction. That's when Mr. Owensby alerted the
15 individuals that we were trying to catch up to to
16 apprehend that the police were coming and that we
17 were in the area. So they got away, because they
18 had a jump on us anyway, because -- and they're
19 already behind -- around the building.

20 So I walked up to Mr. Owensby and I put my
21 left hand on his shoulder. And I said, "What's up?"

22 And he replied, "What's up?"

23 And then I said, "You know, you can't be
24 doing what you just did."

1 That's why he probably took off running.

2 I gave chase. We ran through Huntington
3 Meadows, between the buildings, out onto Rhode
4 Island, into the intersection of Rhode Island and
5 Seymour.

6 Right there at the traffic light is a
7 crosswalk. There was a car stopped at a red light.
8 I was chasing Mr. Owensby around the car. We
9 actually went -- circled the car once or twice. And
10 then he proceeded toward -- in the direction -- on
11 Seymour in the direction of Reading Road down the
12 sidewalk.

13 At that point I was able to put my --
14 secure my weapon and I went to Mace, my chemical
15 spray. He was running down the sidewalk, and at
16 some point he tripped and fell on his own. And I
17 was trying to run up to him to Mace him, but I was
18 running and spraying at the same time. So some of
19 the chemical irritant sprayed back toward me.

20 He was on the ground. He managed to make
21 his way by using his hands and his feet, making his
22 way back to his feet. He then ran in between some
23 apartment buildings.

24 I continued to chase him. He ran into one

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1 up and we got out.

2 Q. Okay.

3 A. But I don't know. Because I don't recall
4 or remember exactly where we stopped and parked the
5 car, because we still had to try to get up to them
6 before they spotted the -- the Neon.7 Q. Right. Okay. So regardless of how you
8 got out of the car or -- or where you parked the
9 car, do you have a recollection of what side of
10 Sam's Carry Out you approached the individuals from?11 A. No. I -- I really can't remember. I'm
12 sorry. I can't remember exactly.13 Q. What is your best recollection of -- at --
14 at some point, though, the individuals -- well,
15 what --16 A. Two of the individuals started walking
17 across the street.

18 Q. Okay. Toward Huntington Meadows?

19 A. Huntington Meadows, yes.

20 Q. All right. Would you draw with a pen, an
21 arrow, indicating the path that the two individuals
22 took from the phone booth to cross the street. And
23 you can do it on the -- probably on the aerial
24 photograph will probably be the easiest one.

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1 Sunoco side or the -- the side of the street where
2 Integrity Hall was at. I don't remember exactly
3 where. I just remember he met up with me on this
4 side of the street in the direction --5 On the -- on the diagram, in the direction
6 that they were walking, he met up with me right
7 before you actually get to the -- the buildings of
8 the, you know, the apart-- where the apartment
9 buildings actually start, Huntington Meadows.10 Q. Okay. I'm going to ask you, on the aerial
11 photograph, draw first a circle around Integrity
12 Hall.

13 A. (Witness complies.)

14 Q. All right. And put an "I" in there.

15 A. (Witness complies.)

16 Q. Second thing is draw a W in a circle where
17 Officer Walker met up with you.

18 A. Hmm-hmm. (Witness complies.)

19 Q. And at that -- am I correct in
20 understanding from what you've told me at that point
21 you and Officer Walker decided to split up to flank
22 the two people that were walking away?23 A. Yes. Our -- our intention was -- if he
24 made it around there, they see him, he would flush

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1 A. (Witness complies.)

2 Q. Okay. And then once they -- if you could
3 continue that across the street in which -- whatever
4 direction they walked.

5 A. (Witness complies.)

6 Q. Thank you. Now, at this point did you and
7 Officer Jorg approach the two individuals that
8 stayed?9 A. Yes. And then that's when Officer Jorg
10 said he had them. Because we had other cars coming
11 and in the area.

12 Q. All right. So Officer Jorg stays --

13 A. Uh-huh. And then I --

14 Q. -- with those two?

15 A. Right. And then I --

16 Q. You --

17 A. I go after the two, walking with Officer
18 Walker.19 Q. Okay. Officer Walker was there at the
20 time?

21 A. He was just pulling up.

22 Q. Okay. Where did Officer Walker pull his
23 car up?

24 A. I don't remember if he parked it on the

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1 them to me, but if they -- or vice versa. If they
2 identify me or assume that I'm a police officer,
3 because, you know, they look back and notice that
4 Jorg was standing there with the two guys detained,
5 that I would flush him to Curtis, to Officer Walker.6 Q. Now, the building -- the building that you
7 and Officer Walker were going to do this flanking
8 maneuver around, was that a Huntington Meadows
9 apartment?10 A. Yes. Because we were -- we were like --
11 it's like right there, right -- right -- right where
12 they -- they -- the actual buildings start. And
13 then to the left I think it -- it was not, but to
14 the right it was Huntington Meadows buildings.15 Q. Can you identify that building on this
16 aerial photograph?17 A. Oh, boy. Maybe. I'm thinking this one --
18 Q. Just draw a circle around it.

19 A. -- here.

20 Q. Put the letter H in there.

21 A. H.

22 Q. Okay. So that's the building that you and
23 Officer Walker are going to do this flanking
24 maneuver around?

	Page 74		Page 76
1 A. Well --		1 Q. Do you know if the individuals started	
2 Q. Did you want to say something?		2 running because of what Mr. Owensby said or because	
3 A. It was not -- it was not a set -- like		3 they saw a uniformed officer?	
4 a -- like a -- just one building. It was like		4 A. Beca--	
5 buildings. It was --		5 MR. HARDIN: Objection.	
6 Q. Okay.		6 You may answer.	
7 A. You know, it was -- it was like two or		7 A. Because of what Mr. Owensby said. Because	
8 three like together, but you can go through the		8 when that happened, Officer Walker didn't have	
9 courtyard and then you can come around, and there's		9 enough time to get around. So they -- they had --	
10 like a building here on the right (indicating).		10 they had -- they -- they couldn't have possibly even	
11 That's the way Curtis went, Officer Walker. And		11 seen him yet.	
12 then I was going to cut through.		12 Q. But as I understand it, Mr. Owensby was	
13 Q. All right. At some point, then, you		13 not one of the four individuals that you and Officer	
14 folk-- you and Officer Walker split up and you start		14 Jorg had observed conducting drug activity at the	
15 to go your way and he goes his, right?		15 phone booth?	
16 A. Yes.		16 A. That's correct.	
17 Q. At that point someone says something to		17 Q. He was just somebody that you happened	
18 warn the two individuals; is that right?		18 upon as you were going around the building?	
19 A. Yes.		19 A. Yes.	
20 Q. That's the next thing that happens?		20 Q. At that point, as I understand it, you	
21 A. Yes.		21 walk up to Mr. Owensby and put your left hand on his	
22 Q. Okay. And that person, if I'm		22 shoulder?	
23 understanding you correctly, was Mr. Owensby?		23 A. Yes.	
24 A. Yes.		24 Q. What shoulder did you put it on?	
	Page 75		Page 77
1 Q. Are you sure of that?		1 A. On his left shoulder.	
2 A. Yes.		2 Q. Were you facing him face to face or did	
3 Q. What is the best of your recollection of		3 you come up from behind?	
4 what Mr. Owensby said?		4 A. Walking to his right, right beside him.	
5 A. It was, The boys or Five-oh.		5 Q. So you put your left arm -- you're --	
6 Q. Say that again.		6 you're to his -- his right and you put your left	
7 A. It was either, The boys or Five-oh.		7 hand on his left shoulder?	
8 Q. And in response to what -- could you see		8 A. Yes.	
9 the two individuals at the time Mr. Owensby said		9 Q. And you say "What's up?" And he says,	
10 this?		10 "What's up?" And you say, you know, You can't be	
11 A. They would -- they were just -- as he said		11 doing that, or something like that, right?	
12 it, they were just leaving out of my view.		12 A. Yes.	
13 Q. Did you see -- so then you could not see		13 Q. And he said, What do you -- What do you	
14 what, if anything, they did in response?		14 mean or what. And you said, What you just did. Is	
15 A. Oh. Ran.		15 that right?	
16 Q. You did see that?		16 A. Yes.	
17 A. Yes. Uh-huh.		17 Q. And then you started to reach in your	
18 Q. Okay. Do you know if Mr. Owensby said		18 shirt to pull your badge out, which was hanging on a	
19 that toward them or was saying it to someone else?		19 chain around your neck?	
20 A. He's saying it toward them, because he		20 A. Yes.	
21 turned to them and said it, in their direction.		21 Q. Do you know whether or not you got the	
22 Q. Do you know where Officer Walker was at		22 badge all the way out before Mr. Owensby started to	
23 the time?		23 run?	
24 A. No.		24 A. Yes, I got it out.	

1 Q. You got it all the way out? 2 A. Yes. 3 Q. And at that point you said he pushed off, 4 or how -- what -- what happened then? 5 A. He pushed off. 6 Q. Okay. 7 MS. GEILER: I'm sorry. What was that? 8 THE WITNESS: Pushed off. I'm sorry. 9 MS. GEILER: Okay. 10 Q. And you grabbed the hood of his sweat 11 shirt? 12 A. Yes. 13 Q. And it -- it ripped and he wiggled out of 14 or got out of the sweat shirt and took off running? 15 A. Yes. 16 Q. What did you do with the sweat shirt? 17 A. Dropped it. 18 Q. After -- 19 MR. HARDIN: I'm sorry. I couldn't hear 20 the answer. 21 THE WITNESS: Dropped it. Let it go. 22 Q. After the incident did you return to get 23 the sweat shirt? 24 A. After the incident, to the best of my	Page 78 1 sweat shirt? 2 A. I told him what happened and where it 3 happened. Because after it happened I -- me 4 personally, I went back to in between the first set 5 of buildings where I was chasing him, because I had 6 my cell phone while I was chasing him and it fell. 7 I went to go find my cell phone. 8 Q. If you know, what happened to the sweat 9 shirt and the plastic bags? 10 A. After that do I know what happened to 11 them? 12 Q. Yeah. You said Officer Jorg picked it up. 13 A. Uh-huh. 14 Q. What happened to it after that? 15 A. I -- I don't know. I assumed he tagged 16 them or whatever. I don't know. I -- I don't know 17 what happened to them after that. 18 Q. You've never seen them since? 19 A. No. 20 Q. Did you ever fill out a property receipt 21 or -- or some property chain of custody document on 22 it? 23 A. Nope. I didn't -- I didn't have the 24 property.
Page 79 1 knowledge, Officer Jorg recovered the sweat shirt 2 and there was some plastic Baggies. There weren't 3 anything in them. They were just little small 4 plastic Baggies in that same area where the -- that 5 actually fell out of -- fell out of his pocket or 6 off of his person when that happened, when the sweat 7 shirt ripped. 8 Q. Did you see them fall out of his pocket or 9 off of his person? 10 A. I saw something fall, but I didn't know 11 what it was. When I came back, it was -- you know, 12 Officer Jorg had picked up the sweat shirt and the 13 Baggies. 14 Q. Were you within the eyesight of Officer 15 Jorg at that time? 16 A. No. 17 Q. So he could not see what was going on? 18 A. See what? 19 Q. Between you and Mr. Owensby and the sweat 20 shirt. 21 A. No. 22 Q. How did he know -- 23 A. I told him. I told him what happened. 24 Q. -- to come to the area to collect the	Page 81 1 Q. Did you see -- well, he was your partner. 2 Did -- did you see Officer Jorg fill out a property 3 receipt? 4 A. No. Huh-uh. 5 Q. Did you see him put it in the car? 6 A. No. 7 Q. After Mr. Owensby wiggled out of the sweat 8 shirt, you drew your weapon? 9 A. Yes. 10 Q. He ran away; there was a chase down to 11 Rhode Island where Rhode Island intersects Seymour. 12 Do you see that on the Exhibit 57, the aerial 13 photograph? 14 A. Yes. 15 Q. And would you mark with the letter R in a 16 circle where the intersection of Rhode Island and 17 Seymour is. 18 A. Circle it? 19 Q. An R in a circle. 20 A. Okay. 21 Q. And I take it at -- at that point, if I'm 22 understanding you correctly, you and Mr. Owensby ran 23 around a car? 24 A. Yes. It was a female --

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1 letting them know that we were there.	1 A. Yes.
2 Q. How -- how far was he from you when he	2 Q. -- on that day?
3 said that?	3 A. Yes.
4 A. About, hmm, maybe from here to that wall	4 Q. Do you see that with respect to Jaysen
5 (indicating).	5 Hill he is charged with criminal trespass and an
6 Q. What, ten feet?	6 open container?
7 A. Oh, more than that.	7 A. Yes.
8 Q. More?	8 Q. Is there any reason why there's no charge
9 A. Maybe --	9 of trafficking --
10 Q. 20 feet?	10 A. Yes.
11 A. Maybe. Maybe 20 feet. I don't know	11 Q. -- or any kind of drug activity?
12 exactly.	12 A. Yes.
13 Q. All right. When you had walked up to Mr.	13 Q. Why?
14 Owensby, put your arm -- your left hand on his left	14 A. Because we didn't recover the drugs.
15 shoulder, around him, when you were talking to him,	15 Q. Did you recover any money, any large sums
16 were you looking at him?	16 of money on these people out of these drug deals?
17 A. Directly at him, yes.	17 A. I didn't.
18 Q. Did you notice if he had any facial hair?	18 THE REPORTER: I'm sorry?
19 A. If he did, it was like real light. I	19 THE WITNESS: I did not.
20 don't remember having like a full beard or full	20 Q. Do you know whether Officer Jorg did?
21 mustache or anything.	21 A. Not to my knowledge he didn't.
22 Q. Did he have the -- did he have -- how was	22 Q. So based on what you found on these
23 his hair? Was it in dreadlocks, was it short-cut?	23 individuals -- well, let's talk about the second
24 How -- how was it?	24 one. Mr. Nixon is cited with criminal trespass.
Page 87	Page 89
1 A. Like a short afro.	1 Same thing, there were no -- no drugs and no large
2 Q. At that point, as I understand your	2 sums of money found, correct?
3 testimony, you then return to Officer Jorg, tell him	3 A. That's correct.
4 what happened, right?	4 Q. Based on what you found at the scene when
5 A. Uh-huh. Yes.	5 you got there, there was no evidence of drug
6 Q. And maybe -- maybe you've already answered	6 activity taking place, was there?
7 this, but do you recall whether or not Officer	7 A. Are you talking about after the fact?
8 Walker joined you and Officer Jorg?	8 Q. When -- when you're -- based on the arrest
9 A. I don't recall if he came back over there.	9 and what you found on the person of these
10 Q. Do you recall who of the two people that	10 individuals.
11 were arrested, who was cited, their -- their names?	11 A. Okay. What we observed to put us there
12 A. I don't remember their names.	12 went with the two that got away.
13 Q. Let me show you -- let me show you what's	13 Q. Okay. That's what you believe?
14 previously been marked as Exhibit 6. These are	14 A. That's what I believe.
15 two -- Exhibit 6 are two arrest and investigation	15 Q. Let me show you what I'm going to mark as
16 reports. The first one is for a Jaysen Hill and the	16 Exhibit 6A.
17 second is for a Jarvis Nixon.	(Deposition Exhibit 6A 17 was marked for identi-
18 You see the arrest location is the Sam's	fication.)
19 Carry Out address of 2092 Seymour Avenue and the	19 Q. You see Exhibit 6A is an arrest and
20 arresting officer is Jorg, with your name also	20 investigation report for one Dominic Peterson, same
21 listed. Do you see that?	21 location, same date, same time. And the person is
22 A. Yes.	22 searched by Officer Walker, and this person is
23 Q. Are these the two individuals that Officer	23 charged with criminal trespass. Was Mr. Peterson
24 Jorg arrested --	24 also involved in this?

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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

- - - - -
ESTATE OF ROGER D. :
OWENSBY JR., et al., :
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Plaintiffs, : Case No. 01-CV-769
vs. : (Judge S. A. Spiegel)
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CITY OF CINCINNATI, : VOLUME II
et al., :
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Defendants. :
- - - - -

Continued videotaped deposition of DAVID
WILLIAM HUNTER JR., a witness herein, called by the
plaintiffs for cross-examination, pursuant to the
Federal Rules of Civil Procedure, taken before me,
Wendy Davies Welsh, a Registered Diplomate Reporter
and Notary Public in and for the State of Ohio, at
the offices of Helmer, Martins & Morgan Co. LPA,
1900 Fourth & Walnut Centre, 105 East Fourth Street,
Cincinnati, Ohio, on Thursday, December 4, 2003, at
10:11 a.m.

Pages: 107 - 282

Estate of Roger D. Owczensky, Jr.
December 4, 2003

DAVID WILLIAM HUNTER, JR.
VOLUME II

<p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 Paul B. Martins, Esq. Don Stiens, Esq. Helmer, Martins & Morgan Co., L.P.A. Suite 1900, Fourth & Walnut Centre 105 East Fourth Street Cincinnati, Ohio 45202 Phone: (513) 421-2400</p> <p>7 John J. Helbling, Esq. The Helbling Law Firm, L.L.C. 3672 Springdale Road Cincinnati, Ohio 45251 Phone: (513) 923-9740</p> <p>10 On behalf of the Defendants City of Golf Manor, Stephen Tilley, Roby Heiland and Chris Campbell:</p> <p>12 Wilson G. Weisenfelder Jr., Esq. Rendigs, Fry, Kiely & Dennis 900 Fourth & Vine Tower One West Fourth Street Cincinnati, Ohio 45202-3688 Phone: (513) 381-9200</p> <p>15 On behalf of the Defendants City of Cincinnati, Darren Sellers, and Jason Hodge:</p> <p>17 Geri Hernandez Geiler, Esq. Assistant City Solicitor Department of Law Room 214, City Hall 801 Plum Street Cincinnati, Ohio 45202 Phone: (513) 352-3346</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>Page 108</p> <p>1 Federal Rules of Civil Procedure, may be taken at 2 this time by the notary; that said deposition may be 3 reduced to writing in stenotype by the notary, whose 4 notes may then be transcribed out of the presence of 5 the witness; and that proof of the official 6 character and qualifications of the notary is 7 expressly waived.</p> <p>8 I N D E X</p> <p>9 Examination by: Page</p> <p>10 Mr. Martins 111, 277</p> <p>11 Mr. Hardin. 258</p> <p>12 - - -</p> <p>13 E X H I B I T S</p> <table border="0"> <thead> <tr> <th></th> <th style="text-align: right;">Page</th> </tr> </thead> <tbody> <tr> <td>14 Deposition Exhibit B5</td> <td style="text-align: right;">120</td> </tr> <tr> <td>15 Deposition Exhibit B6</td> <td style="text-align: right;">131</td> </tr> <tr> <td>16 Deposition Exhibit B7</td> <td style="text-align: right;">152</td> </tr> <tr> <td>17 Deposition Exhibit B8</td> <td style="text-align: right;">219</td> </tr> <tr> <td>18 Deposition Exhibit B9</td> <td style="text-align: right;">221</td> </tr> <tr> <td>19 Deposition Exhibit B0</td> <td style="text-align: right;">234</td> </tr> <tr> <td>20 Deposition Exhibit B1</td> <td style="text-align: right;">236</td> </tr> <tr> <td>21 Deposition Exhibit B2</td> <td style="text-align: right;">238</td> </tr> <tr> <td>22 Deposition Exhibit B3</td> <td style="text-align: right;">244</td> </tr> <tr> <td>23 Deposition Exhibit B4</td> <td style="text-align: right;">244</td> </tr> <tr> <td>24 Deposition Exhibit B5</td> <td style="text-align: right;">245</td> </tr> <tr> <td>Deposition Exhibit B6</td> <td style="text-align: right;">250</td> </tr> </tbody> </table> <p>21 - - -</p> <p>22</p> <p>23</p> <p>24</p>		Page	14 Deposition Exhibit B5	120	15 Deposition Exhibit B6	131	16 Deposition Exhibit B7	152	17 Deposition Exhibit B8	219	18 Deposition Exhibit B9	221	19 Deposition Exhibit B0	234	20 Deposition Exhibit B1	236	21 Deposition Exhibit B2	238	22 Deposition Exhibit B3	244	23 Deposition Exhibit B4	244	24 Deposition Exhibit B5	245	Deposition Exhibit B6	250
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<p>1 APPEARANCES (Continued):</p> <p>2 On behalf of the Defendants Robert B. Jorg, Patrick Caton, Jason Hodge, Victor Spellen and Darren Sellers:</p> <p>4 Donald E. Hardin, Esq. Hardin, Lefton, Lazarus & Marks, LLC 915 Cincinnati Club Building 30 Garfield Place Cincinnati, Ohio 45202 Phone: (513) 721-7300</p> <p>7 On behalf of David William Hunter Jr.:</p> <p>8 Jay Clark, Esq. 114 East 8th Street Suite 400 10 Cincinnati, Ohio 45202 Phone (513) 587-2887</p> <p>11 Also present:</p> <p>12 Richard W. Grubb, Videographer</p> <p>13 Lisa Damstrom, Law Clerk 14 Helmer, Martins & Morgan Co., L.P.A.</p> <p>15 Roger Owczensky Senior</p> <p>16 Brenda Owczensky</p> <p>17 Shawn Owczensky</p> <p>18 - - -</p> <p>19 S T I P U L A T I O N S</p> <p>21 It is stipulated by and among counsel for the 22 respective parties that the deposition of DAVID 23 WILLIAM HUNTER JR., a witness herein, called by the 24 plaintiffs for cross-examination, pursuant to the</p>	<p>Page 109</p> <p>1 DAVID WILLIAM HUNTER JR. 2 being by me previously duly cautioned and sworn, 3 deposes and says as follows: 4 VIDEOGRAPHER: Time is 10:11 a.m. The 5 date is December the 4th. The year is 2003. 6 We're on the record, sir. 7 CONTINUED CROSS-EXAMINATION 8 BY MR. MARTINS: 9 Q. Officer Hunter, we're picking up where we 10 left off after November 6, your first couple hours 11 of your deposition. Remind you that you are still 12 under oath. Okay? 13 A. Yes, sir. 14 Q. All right. Have you talked with anyone 15 about your deposition on November 6th between 16 November 6th and today? 17 A. No, besides my attorney. 18 Q. Okay. Have you discussed the facts of the 19 Owczensky case with anyone between November 6th and 20 today? 21 A. No. 22 Q. I want to direct your attention now to 23 November 7, 2000. I understand in the -- sometime 24 on that day you received an MTD message request for</p>																										

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1 MS. GEILER: Thank you.

2 THE WITNESS: You're welcome.

3 BY MR. MARTINS:

4 Q. What happened once you saw Mr. Owensby
5 walking in the vicinity of Integrity Hall?6 A. Noth-- I brought it to Jorg and Caton's
7 attention.

8 Q. What did you say to them?

9 A. I said, "That guy looked like the guy that
10 ran from me. Remember when we" -- well, then I was
11 talking to Officer Jorg. I said, "Remember when we
12 was working old clothes that day?"13 Q. And what, if anything, did Jorg say in
14 response?15 A. He asked me if I was sure if that was him.
16 I said, "Well, from this distance and in this light,
17 no, I can't be sure from here."18 Q. Were you able to tell at -- at that point
19 in time whether or not Mr. Owensby had facial hair?

20 A. From that distance?

21 Q. From that distance.

22 A. No.

23 Q. What was it about the person that you saw
24 by Integrity Hall that made you think it looked like

1 Q. And what I'm --

2 A. -- previously.

3 Q. -- trying to understand is, what were
4 those features?5 A. His -- his build, his height, his -- I
6 mean, just -- his stature. And like I said, it
7 wasn't light -- I mean, the sun wasn't up, but it
8 was -- it was like not completely dark either.9 Q. Can you identify any other distinguishing
10 feature of the person that you saw by Integrity Hall
11 that caused you to think that that was the same
12 person that ran from you on September 27th?

13 A. No. Not -- I mean, no.

14 Q. The -- when you said -- pointed him out to
15 Officer Jorg, do you know whether or not Officer
16 Jorg said something to you to the effect, words to
17 the effect that that takes balls to walk past
18 cruisers and uniformed officers?19 A. That sound familiar to me. That -- that
20 does sound familiar to me, but I can't recall.21 Q. I'm -- I'm not sure I'm quoting it
22 direct -- correctly, but some -- words to that
23 effect.

24 A. I'm just saying I remember hearing

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1 the person that had run from you on September 27th?

2 A. His height, size. And from where I was
3 standing, he was walking at an angle, and I could
4 get like a -- I could see like his face from a
5 distance as far as like, you know, he looked similar
6 to the person that ran from me at that time.

7 Q. What was his height?

8 A. I don't know his height.

9 Q. Would it be fair to say he was average
10 height?

11 A. Yeah. Medium build.

12 Q. Average height, medium build?

13 A. (Nodding head.)

14 Q. Okay.

15 A. Uh-huh.

16 Q. And if I understand you correctly, from
17 his -- from that distance you could not tell if he
18 had facial hair. Were there any other
19 distinguishing characteristics about him that caused
20 you to think that he was the person that ran from
21 you on September 27?22 A. Like I say, he just -- he had the features
23 of the person that I remember that had ran from
24 me --

1 something like that.

2 Q. Okay. Did Officer Caton say anything to
3 you?

4 A. I don't remember. I mean, I --

5 Q. When you were talking to Officer Jorg,
6 pointing out this person over by Integrity Hall, was
7 Officer Caton there also?

8 A. Yes.

9 Q. Did Officer Jorg explain or -- or did you
10 explain to Officer Caton who this person was that --
11 that you were referring to?12 A. Well, he was standing there while me and
13 Jorg was talking, so he could just gather it from
14 that what we were talking about, because he knew
15 about the incident.16 Q. And that's what I'm trying to understand,
17 is how did he know about the incident?

18 A. From Jorg, I'm sure.

19 Q. Did -- did -- did you hear Jorg talk to
20 him about the incident?21 A. No, but me and Jorg was talking back and
22 forth about the incident.

23 Q. And Caton was there?

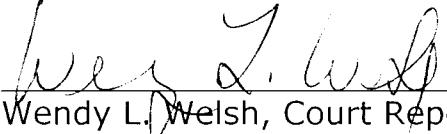
24 A. And Caton was there.

AFFIDAVIT

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STATE OF OHIO : SS
COUNTY OF HAMILTON :

I, Wendy L. Welsh, Notary Public in and for the State of Ohio, do hereby state that the transcript of the deposition of DAVID WILLIAM HUNTER, JR., deponent herein, having been submitted to said deponent for review and signature, has not been signed within the thirty (30) day period allowed under the Federal Rules; said deposition to now have the same force and effect as though signed.



Wendy L. Welsh, Court Reporter

Sworn to before me this 27th day of January, 2004.



Thomas M. Blasing

Notary Public - State of Ohio

My commission expires:
May 4, 2004.